94TH CONGRESS
2D SESSION

H. R. 14705

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 1976

Mr. ARCHER (for himself, Mr. BEVILL, Mr. BURGENER, Mr. CLEVELAND, Mr. CONTE, Mr. DAN DANIEL, Mr. DICKINSON, Mr. EDGAR, Mr. GRASSLEY, Mr. HYDE, Mr. KEMP, Mr. KETCHUM, Mr. LOTT, Mr. MOORHEAD of California, Mr. ROE, Mr. STEIGER of Arizona, Mr. TREEN, and Mr. ZEFERETTI) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to exclude individuals who are not citizens of the United States from appointment in the competitive service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3328. Competitive service; citizenship requirements

"An individual may not be admitted to a competitive examination held by the Civil Service Commission or appointed in the competitive service unless such individual—

"(1) is a citizen of the United States; or

"(2) owes permanent allegiance to the United States.".

(b) The table of sections for subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"3328. Competitive service; citizenship requirements.".

SEC. 2. Section 3302 of title 5, United States Code, is amended by inserting "3328," immediately after "3321,".

SEC. 3. This Act shall take effect on the date of its enactment and it shall not have any effect with respect to individuals who have been appointed in the competitive service before the date of the enactment of this Act.

94TH CONGRESS
2D SESSION

H. R. 14705

A BILL

To amend title 5, United States Code, to exclude individuals who are not citizens of the United States from appointment in the competitive service, and for other purposes.

By Mr. ARCHER, Mr. BEVILL, Mr. BURGENER, Mr. CLEVELAND, Mr. CONTE, Mr. DAN DANIEL, Mr. DICKINSON, Mr. EDGAR, Mr. GRASSLEY, Mr. HYDE, Mr. KEMP, Mr. KETCHUM, Mr. LOTT, Mr. MOORHEAD of California, Mr. ROE, Mr. STEIGER of Arizona, Mr. TREEN, and Mr. ZEFERETTI

JULY 19, 1976
Referred to the Committee on Post Office and Civil Service

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of her own mind, and with whatever counseling she seeks, she has the right to make her decision, and no one is better qualified. If she is denied that right, the result may well be an unwanted child, with all the attendant possibilities of abuse and neglect.

Finally, as a practical matter, legalization of abortion is a much more sound and humane social policy than prohibition. Banning abortions does not eliminate them; it never has and it never will. It merely forces women to go the dangerous route of illegal or self-induced abortions. Even worse, it makes abortion a "rich-poor" issue. At a high price, a well-to-do woman can always find a safe abortion. But, unable to pay the price, the poor woman all too often finds herself in incompetent hands.

Experience in three Catholic countries of Latin America that I visited provides dramatic evidence of a high incidence of abortion even when it is against the law. Estimates are that there is one abortion for every two live births in Colombia, and that more than half a million illegal abortions are performed every year in Mexico. In Chile, hospital admissions caused by illegal abortions gone wrong exceed 50,000 per year.

In contrast, the access to safe procedures in the United States has resulted in a drastic decline in deaths associated with abortion. In the period 1969–74, such deaths have fallen by two-thirds. Statistics also strongly suggest that about 70 per cent of the legal abortions that have been performed would still have occurred had abortion been against the law. The only difference is that they would have been dangerous operations instead of safe ones.

When you combine the religious, moral and social issues raised above with the fact that women need and will seek abortions even if they are illegal, the case for legalized abortion is overwhelming. We dare not turn the clock back to the time when the religious strictures of one group were mandatory for everyone—not in a democracy.

A PLEA FOR FREEDOM

We must uphold freedom of choice. Moreover, we must work to make free choice a reality by extending safe abortion services throughout the United States. Only one-fourth of the non-Catholic general hospitals and one-fifth of the public hospitals in the country now provide such services. It is still extremely difficult to have a legal and safe abortion if you are young or poor or live in a smaller city or rural area.

On a broader front, we must continue the effort to make contraceptive methods better, safer and more readily available to everyone. Freedom of choice is crucial, but the decision to have an abortion is always a serious matter. It is a choice one would wish to avoid. The best way to do that is to avoid unwanted pregnancy in the first place.

CITIZENSHIP REQUIREMENT FOR FEDERAL JOBS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. DOWNEY of New York. Mr. Speaker, the recent Supreme Court ruling, *Hampton, Chairman, U.S. Civil Service Commission, et al.*, v. *Mow Sun Wong et al.*, striking down the U.S. Civil Service Commission's regulation that bars resident aliens from employment in Federal competitive service jobs is open to congressional correction. The decision does not imply that nonhiring of aliens by the Federal Government is in itself unconstitutional; rather, the decision states that it is unconstitutional for a Federal agency to issue such a regulation on its own. The possibility of future limitations on Federal jobs for aliens is left open. In fact, the decision strongly hints that Congress could pass legislation limiting Federal jobs for aliens:

. . . Alternatively, if the rule were expressly mandated by the Congress of the President, we might presume that any interest which might rationally be served by the rule did in fact rise to its adoption . . .

. . . In sum, . . . the national interests identified by the petitioners would adequately support an explicit determination by Congress or the President to exclude all noncitizens from federal service . . .

Congress should take immediate action in placing a citizenship requirement on Federal jobs. Surely our Federal jobs pool is too large already, but it is not yet so immense that there are not thousands upon thousands of Americans qualified and available to work for our Government. American workers should hold these jobs, especially during this period of high unemployment. American citizens should not have to compete with over 3.5 million resident aliens for Federal jobs: Americans must have preference.

Consequently, I am introducing legislation today that would amend title 5 of the United States Code to exclude individuals who are not citizens of the United States from appointment in the competitive civil service. The bill does allow the President to waive the prohibition in special circumstances—if there is a need of a special talent which could only be provided by a noncitizen or if no American citizen has applied for a particular position.

The question of restricting resident aliens from employment in Federal service jobs has been raised by the *Hampton, Chairman, U.S. Civil Service Commission et al.*, v. *Mow Sun Wong et al.*, decision. It is imperative that Congress take the responsibility to act on this matter.

The text of my bill follows:

H.R. 14898

A bill to amend title 5 of the United States Code, to exclude individuals who are not citizens of the United States from appointment in the competitive service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 33 of title 5 of the United States Code, is amended by adding at the end thereof the following new section:

"§ 3328. Competitive service; citizenship

"An individual may not be admitted to a competitive examination held by the Civil Service Commission or appointed in the competitive service unless such individual (1) is a citizen of the United States; or (2) owes permanent allegiance to the United States.".

(b) The table of sections for subchapter I of chapter 33 of title 5 of the United States Code, is amended by adding at the end thereof the following new item:

"3328. Competitive service; citizenship.".

SEC. 2. Section 3302 of title 5, United States Code, is amended by inserting "3328," immediately after "3321,".

SEC. 3. This Act shall take effect on the date of its enactment and it shall not have any effect with respect to individuals who have been appointed in the competitive service before the date of the enactment of this Act.

CODE WORD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Mr. WAXMAN. Mr. Speaker, it has become distressingly fashionable for critics and analysts of the Middle East to paint Israel as the intransigent party in the area—that if only Israel would withdraw to the 1967—1948?—borders, that if only Israel would unconditionally turn over the West Bank and the Gaza Strip to the Palestinians, that if only Israel would pay reparations to the refugees of the 1948 war of independence, peace would come to the Middle East for all peoples.

It is a convenient and illusory argument. It is one which seeks to rationalize the exploitative power shift which has graced the Arab oil producing states, and their Soviet arms backers, since the Yom Kippur War. It is one which closes its eyes to horror of terrorism, and which washes its hands of the hemorrhage that is Lebanon today. It is, finally, an argument which remains blind to the basic obstacle to peace between Israel and its neighbors: The refusal of the Arab States and the Palestinians to accept Israel's existence within secure and recognized borders.

Such a precept is the basis of all sovereignty. Those who fail to understand Israel's emphasis on this condition fail to appreciate the double standard by which Israel is being judged throughout the world.

Israel does cause the world a lot of heartache and a lot of trouble. It is painful to confront a nation's insistence that it enjoy the same rights and privileges as nations everywhere. It is difficult when one small and courageous country tries to call into account the conscience of a world which refuses to take responsibility for the continuation of terrorism. It is unpleasant to be reminded of the mortgaging of cherished values and principles in the scramble for OPEC oil. Yes, Israel does not make life easy for us.

So it is not hard to understand why much of the world does not like Israel very much, and why so much of the world finds it easy to assume an arrogant posture, and tell the Israelis what is best for them.

But there are many who know better. One of them, Leonard Garment, now serves as the U.S. representative to the United Nations Commission on Human Rights. His is an apt vantage point. He writes eloquently on these themes, on the cruel untruths behind the code word. I commend to my colleagues Mr. Garment's essay on these issues:

[From the New York Times, July 18, 1976]

CODE WORD

By Leonard Garment

One word has come to be applied as a code to describe the position of Israel in the debate over law and land in the Middle East.

problems for U.S. citizens in northern Virginia, the Washington metropolitan area, and in other cities with significant numbers of diplomatic personnel. The issues range from unpaid traffic tickets to automobile accidents involving personal injuries and fatalities.

I believe it is time to focus attention on the proper use and increasingly frequent abuse of the privilege of diplomatic immunity and to air the issue thoroughly.

For this reason, I have introduced, with Representative THOMAS E. MORGAN, chairman of the House International Relations Committee, H.R. 13828, which clearly specifies the privileges and immunities to which foreign diplomatic missions and their personnel are entitled. An identical bill was introduced in the Senate in February at the request of the State Department by Senator JOHN SPARKMAN, chairman of the Senate Foreign Relations Committee.

Current U.S. law, enacted in 1970, provides diplomatic immunity from criminal, civil, and administrative jurisdiction to all foreign nationals who are not permanent residents, and who are assigned the proper nonimmigrant status as employees in embassies in Washington and other U.S. cities. Thus, diplomatic immunity is granted to ambassadors, clerks, secretaries, chauffeurs, and cooks alike whether on embassy business or on a personal night on the town.

My proposed legislation would repeal these statutes and bring U.S. law into conformity with the Vienna Convention on Diplomatic Relations signed by the United States and more than 100 other nations in 1972. The Vienna Convention restricts full diplomatic immunity to high level diplomatic personnel and further narrows the use of diplomatic immunity by distinguishing between the performance of official and unofficial duties. For example, service staff would have the privilege of immunity only in performance of official duties. Private household servants would lose all immunity under the Vienna Convention.

The bill contains certain other provisions that should be carefully discussed. Some nations covered by the Vienna Convention grant more favorable treatment for U.S. diplomatic personnel than others.

The proposed legislation would allow the President authority to grant more favorable treatment to certain nations at his discretion. It may be wise to guarantee in the legislation some congressional role or oversight in the use of this authority. Perhaps a congressional veto would be in order. This point should be examined during hearings which I expect the House International Relations Committee to hold.

Historically, immunity has been accorded so that the essential work of international relations may be conducted without disturbance or harassment to the diplomat by the host countries. Present day facts are quite different. Unfortunately, its most frequent use seems to be in cases of automobile accidents. My bill tries to separate the ordinary civil offense from the traditional diplomatic immunity by sharply limiting the number of persons who can claim immunity and the circumstances to which the immunity attaches.

This month I have also cosponsored H.R. 11560, introduced by Representative EDWARD KOCH, to assist American citizens who have been injured in automobile accidents involving foreign diplomatic personnel. Persons injured have had great difficulty or have been unable to obtain proper financial relief because diplomatic personnel were either not insured or their insurance companies refused to make settlements.

The proposed legislation would require foreign nonresidents who bring automobiles into this country for personal use to obtain liability insurance and to register them with the U.S. Customs Service. Because diplomatic personnel cannot be sued in U.S. courts, the proposed law would give the Secretary of State the power of enforcement. It would also require liability policies to state that payment be made to injured parties regardless of whether the holder of the policy has diplomatic immunity.

I expect prompt consideration of this bill by the Trade Subcommittee of the Ways and Means Committee.

The abuse of the privilege of diplomatic immunity has become serious in the Washington metropolitan area. I believe H.R. 13828 and H.R. 11560 are a good start toward correcting that abuse.

NO RETREAT ON ABORTION

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1976

Ms. ABZUG. Mr. Speaker, it has been 3 years since the Supreme Court decided in Poe against Wade to grant women the right to choose abortion. This historic ruling, based upon the 200-year-old fundamental American judicial principals of right to privacy, freedom of choice, and religious tolerance, placed the decision to terminate a pregnancy where it rightly belongs—with the women and her doctor. However, this court decision has met violent opposition from a highly visible group of antiabortion forces. While this handful of individuals wage a massive emotional publicity campaign, in reality they only represent a minority of Americans according to all the nationwide surveys. Efforts to reverse the abortion decision indicate a serious lack of concern for the health and well-being of those involved, disregard for the social cost of the unwanted child, and denial of a woman's constitutional right. I would like to bring to your attention an article written by John D. Rockefeller III, in the June 21 edition of Newsweek, which addresses the issues surrounding recent attempts to retreat on abortion. The House has once again been presented with legislation to limit the application of the Supreme Court decision affirming a woman's right to an abortion, the Hyde amendment to the Labor-HEW bill which would prohibit the use of medicaid for abortion. I would like to take this opportunity to insert this article in the RECORD:

NO RETREAT ON ABORTION

(By John D. Rockefeller 3d)

It is ironic that in this Bicentennial year there is a strong effort across the nation to turn the clock back on an important social issue. Ever since the Supreme Court legalized abortion in January 1973, anti-abortion forces have been organizing to overturn the decision. They have injected the issue into the campaigns of 1976, including the appearance of a Presidential candidate who ran on the single issue of opposition to abortion.

There have been efforts within the Congress to initiate a constitutional amendment prohibiting abortion. There is litigation being pressed in state courts and appeals to the Supreme Court. Last November the National Conference of Catholic Bishops issued a "Pastoral Plan for Pro-Life Activities" calling for a wide-ranging anti-abortion effort in every Congressional district, including working to defeat any congressman who supports the Supreme Court decision.

Those who appose abortion have won the battle of the slogans by adopting "Right to Life" as theirs. And, by concentrating on the single issue of the fetus, they have found abortion an easy issue to sensationalize. Thus, they have tended to win the publicity battle, too.

CONSCIENCE AND COERCION

In contrast, those who support legalized abortion—and opinion polls demonstrate them to be a majority—have been comparatively quiet. After all, they won their case in the Supreme Court decision. Legalized abortion is the law of the land. It is also in the mainstream of world opinion. The number of countries where abortion has been broadly legalized has increased steadily, today covering 60 per cent of the world population.

In this situation, there is a natural tendency to relax, to assume that the matter is settled and that the anti-abortion clamor will eventually die down. But it is conceivable that the United States could become the first democratic nation to turn the clock back by yielding to the pressure and reversing the Supreme Court decision. In my judgment, that would be a tragic mistake.

The least that those who support legalized abortion should do is try to clarify the issue and put it in perspective. The most powerful arguments about abortion are in the field of religious and moral principles—and this is where the opposing views clash head-on. Abortion is against the moral principles defended by the Roman Catholic Church, and some non-Catholics share this viewpoint. But abortion is *not* against the principles of most other religious groups. Those opposed to abortion seek to ban it for everyone in society. Their position is thus coercive in that it would restrict the religious freedom of others and their right to make a free moral choice. In contrast, the legalized abortion viewpoint is non-coercive. No one would think of forcing anyone to undergo an abortion or forcing doctors to perform the procedure when it violates their consciences. Where abortion is legal, everyone is free to live by her or his religious and moral principles.

SAFETY VS. DANGER

There are also strong social reasons why abortion should remain legalized. In a woman's decision to have an abortion, there are three key considerations—the fetus, the woman herself, and the future of the unwanted child. Abortion opponents make an emotional appeal based on the first consideration alone. But there is steadily growing understanding and acceptance of a woman's fundamental right to control what happens to her body and to her future. In the privacy

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

OGC 76-4122
7-27-76

FROM:	EXTENSION	NO.
Office of Legislative Counsel 7D35 Hqs.		DATE 27 July 1976 STAT

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. OGC - Attn: [redacted] STAT 7D07 Hqs.	7-27-76			Attached is a copy of H.R. 14705, the most recent bill introduced in the House related to employment of non-citizens in the competitive service. As you will see, H.R. 14705, unlike S.3572, which I previously sent you and regarding which I am awaiting your opinion, applies only to the competitive service.
2.				
3.				
4.				
5.				[redacted] STAT
6.				
7.				OGC has no objection to HR-14705, inasmuch as the proposed statute applies only to the competitive services. STAT
8.				
9.				[redacted]
10.				Office of General Counsel
11.				
12.				
13.				
14.				
15.				

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OLC 76-1003

12 JUL 1976

MEMORANDUM FOR: Deputy Director for Administration

FROM : Robert W. Gambino
Director of Security

SUBJECT : S. 3572

The Office of Security has reviewed S. 3572, a bill to prohibit aliens from employment in the Federal competitive service. Since United States citizenship is a prerequisite for Agency staff-type employment, the provisions of the bill would seem only to support this existing requirement. No problems from a security standpoint are noted with reference to its passage.

STAT

[redacted]

Robert W. Gambino

OS 6 3052